

MINUTES HEARING OFFICER DECEMBER 3, 2013

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Vanessa MacDonald, Hearing Officer Steve Abrahamson, Planning & Zoning Coordinator Sherri Lesser, Senior Planner Diana Kaminski, Senior Planner Diane McGuire, Administrative Assistant II

Number of Interested Citizens Present: 18

Meeting convened at 1:35 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by December 17, 2013 at 3:00 PM, to the Community Development Department.

2. Ms. MacDonald noted a correction to decision for the Hearing Officer Minutes for November 6, 2013, Item No. 6:

Request approval to abate public nuisance items at the **VOGEL/MCCOLLUM PROPERTY (PL130388)** located at 924 East Broadmor Drive. The applicant is the City of Tempe.

DECISION:

The code compliance inspector, Jody Benson, withdrew this abatement request (PL130388 / ABT130331 / CE132973).

3. Request approval to abate public nuisance items at the **SCOTT PROPERTY (PL130402)** located at 470 West Colt Road. The applicant is the City of Tempe.

ABATEMENT REQUEST (PL130402 / ABT13033 / CE132973) HAS BEEN WITHDRAWN BY JACK SCOFIELD, CODE INSPECTOR, AS THE PROPERTY IS NOW IN COMPLIANCE.

4. Request approval to abate public nuisance items at the **LA FRANCE PROPERTY (PL130411)** located at 2330 West Carson Drive. The applicant is the City of Tempe.

There was no one present to represent the property owner.

Brandy Zedlar, Code Compliance Inspector, requested a 180 day open abatement for the property located at 2330 West Carson Drive. The property is in violation (CE132124) due to deteriorated landscape in the front and back yard areas. Ms. Zedlar noted the home has been in violation since June 2013 and that the property owner has not taken any corrective action.

Ms. MacDonald stated that no progress has been made on bringing the property into compliance.

There was no public input.

DECISION:

Ms. MacDonald approved abatement proceedings for PL130411/ABT13035 for an open period of 180 days.

5. Request approval to abate public nuisance items at the **SANDVIG PROPERTY (PL130419)** located at 4006 South Hanna Drive. The applicant is the City of Tempe.

There was no one present to represent the property owner.

Brandy Zedlar, Code Compliance Inspector, requested an abatement for the property located at 4006 South Hanna Drive. The property is in violation (CE131159) due to deteriorated landscape in the front and side yard area and junk and debris in the carport area. Ms. Zedlar noted the home has been in violation since April 2013 and that the property owner has not taken any corrective action.

Ms. MacDonald stated that her on-site review indicated that the property was in a bad state.

There was no public input.

DECISION:

Ms. MacDonald approved abatement proceedings for PL130419/ABT13036.

6. Request approval to abate public nuisance items at the **HONSIK PROPERTY (PL130410)** located at 847 West Rice Drive. The applicant is the City of Tempe.

There was no one present to represent the property owner.

Brandy Zedlar, Code Compliance Inspector, requested a 180 day open abatement for the property located at 847 West Rice Drive. The property is in violation (CE132232) due to deteriorated landscape in the front yard area. Ms. Zedlar noted the home has been in violation since June 2013.

Ms. MacDonald stated that the City has been unable to contact the property owner and the property remains in a deteriorated condition.

There was no public input.

DECISION:

Ms. MacDonald approved abatement proceedings for PL130410/ABT13034 for an open period of 180 days.

7. Request approval for a Use Permit to allow resale retail for **FAIRLANE VILLAGE CENTER – THE JEWELRY BUYERS** (PL130401) located at 4409 South Rural Road, Suite No. 101. The applicant is David Ganem.

David Ganem and Scott Gallow were present to represent this case. Mr. Ganem acknowledged their understanding of the assigned Conditions of Approval.

Sherri Lesser, Senior Planner, noted that the proposed use is located within the Fairlane Village Center on the east side of Rural Road and south of the US 60. The applicant is requesting approval of a use permit to allow a second hand retailer (precious metal buying business) and they are associated with Ganem Jewelers for retail and repair of jewelry on site. The proposed use is not a pawn business, however, customers can sell items (unwanted precious metals) to the store and purchase other jewelry. Staff is recommending approval of this request.

There has been no public input received.

Ms. MacDonald noted that this was a pretty straight forward request and meets the criteria for a Use Permit:

- 1. No significant increase in vehicular or pedestrian traffic. The volume of customers will not create an excess of traffic for the area.
- 2. The proposed use is similar to others in the area and there should be no nuisances created from odor, dust, gas, noise vibration, smoke, heat or glare.
- 3. The proposed use is not in conflict with the city's adopted plans or General Plan. It would not contribute to neighborhood deterioration or downgrade property values.
- 4. The proposed use appears to be compatible with surrounding structures and uses.
- 5. The proposed use appears to have adequate control of disruptive behavior.

DECISION:

Ms. MacDonald approved PL130401/ZUP13137 subject to the following conditions:

- 1. This Use Permit is valid for the plans as submitted within this application.
- 2. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
- 3. Any intensification or expansion of use shall require a new Use Permit.
- 4. The use permit is valid for THE JEWELRY BUYERS and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
- 5. All business signs shall receive a Sign Permit. Contact sign staff at 480-350-8345.
- 6. All required permits and clearances for resale retail shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the Use Permit becoming effective.
- 7. The applicant shall contact Nathan Ryberg/City of Tempe Police Department (480-858-6409) to verify if a security plan will be required for the purchase of gold and precious metals.

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8. Request approval for a Use Permit to allow overnight boarding for a veterinary clinic for **VCA ANIMAL HOSPITAL (PL130423)** located at 1845 East Broadway Road. The applicant is Carol Harder.

Carol Harder and Cris Alvonellos were present to represent this case. They acknowledged their understanding of the assigned Conditions of Approval.

Sherri Lesser, Senior Planner, noted that the VCA Antech Veterinary Hospital is opening their practice in the Broadway Square Shopping Center located at the southeast corner of Broadway Road and McClintock. The location will include accessory uses including diagnostics, retail sales, grooming and boarding. They are seeking a use permit to allow overnight boarding to keep animals on site during recovery. The recovery room is equipped with six (6) dog runs and ten (10) smaller cages. The clinic has 15 full time employees. They are open for business from 8 Am to 6 Pm Monday thru Friday; and on Saturday from 8 Am to 2 Pm. They anticipate having 30 to 40 customers visit the clinic per day.

There has been no public input received on this request.

Ms. MacDonald questioned the parking situation. Ms. Lesser responded that Condition of Approval No. 8 addresses the need for a Shared Parking Study to be provided by the applicant. Ms. Lesser noted that the applicant has several options for shared parking in this location.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:

- 1. The proposed use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general. The facility is located in a commercial shopping center and will have small interior space within their suite for the overnight boarding area not immediately adjacent to any residential use.
- 2. There should be no significant increase in vehicular or pedestrian traffic in adjacent areas. The traffic generated by the proposed use should be similar to surrounding commercial retail uses.
- 3. The proposed use is similar to others in the area and there should be no nuisances created from odor, dust, gas, noise vibration, smoke, heat or glare. The interior space for recovery is located to the rear of the suite.
- 4. The proposed use supports the goals and objectives of the General Plan in the continuing use of an existing building and bringing people to the area for commerce.
- 5. The business will be compatible with the surrounding shopping center uses.
- 6. Adequate control of disruptive behavior both inside and outside the premises. The applicant has indicated that pets are continuously monitored by staff. The property has a CMU block wall surrounding the back of the property and is buffered from residential uses.

DECISION:

Ms. MacDonald approved PL130423 / ZUP13138 subject to the following conditions:

- 1. This Use Permit is valid only after permits have been obtained for tenant improvements and signage and the required inspections have been completed and a Final Inspection has been passed.
- 2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
- 3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit.
- 4. The use permit is valid for VCA ANIMAL HOSPITAL and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- 5. Hours of operation to be from 8 Am to 2 Pm 6 Pm Monday thru Friday and 8 Am to 2 Pm Saturday with staff available in the evening for overnight care of the animals. **CORRECTED BY STAFF**
- 6. Any non-conforming lighting shall be upgraded to meet current light levels in parking, pedestrian areas and at doorways for the safety of customers and staff prior to the use permit becoming effective.
- 7. Replace all dead or missing landscape material on site prior to the use permit becoming effective.
- 8. Update the shared parking model for the center to convert the tenant spaces to a medical use. Adjustments may need to occur to the size of this future tenant space or the mix of uses identified within the current

model to keep the peak demand for parking spaces equal or less than the supply provided on the site. The shared model must be updated prior to submittal of tenant improvement plans and the use permit becoming effective.

9. Request approval for two Use Permit Standards to reduce the front and street side yard setbacks by 20% from 20 ft. to 16 ft. and a Use Permit to allow a new two story single family residence for the **JARMAN PROPERTY** (PL130424) located at 1136 South Roosevelt Street. The applicant is William Jarman.

William Jarman was present to represent this case. He acknowledged his understanding of the assigned Conditions of Approval.

Diana Kaminski, Senior Planner, noted that this site is located on the northwest corner of Roosevelt and 12th Streets in the Mitchell Park West Neighborhood. The vacant lot is proposed for a new single family 2,520 s.f. two-story residence. The request includes the following:

ZUP13139 Use Permit Standard to reduce the street side yard setback by 20% from 20 ft. to 16 ft.

ZUP13146 Use Permit Standard to reduce the front yard setback by 20% from 20 ft. to 16 ft.

ZUP13147 Use Permit to allow a new two-story single family residence.

Ms. Kaminski noted that the original house was built in the 1940's under the 1938 Zoning Ordinance 177, which did not specify setbacks. Most residences were built after 1950; the 1951 Zoning Ordinance 209 was the determining development standard for the character of the Mitchell Park West Neighborhood and is part of the Val Verde Plat 4. The plat was created under Zoning Ordinance 177, which did not specify development standards; the lots in this neighborhood are 112.5 ft. deep by 57 ft. wide, totaling 6,412 s.f. per lot. In 2005 a covenant to hold the subdivided parcels as one was recorded for the four parcels, but in the other direction from the original plat configuration. The two new lots are 114 ft. long east to west and 56 ft. wide north to south, fronting Roosevelt. The result is that Lot 93 to the west becomes a Key Lot impacting the setbacks as defined for lots adjacent to key lots.

Ms. Kaminski explained that the lot meets the overall lot size requirements, but is too narrow to provide the full 20 ft. street side yard (south side facing 12th street) setback adjacent to a key lot. The design of the home is not part of this request, as single family homes are not subject to Development Plan Review design criteria or planning entitlement processing. The applicant is required to obtain building permits with a sealed registrant's drawings.

There have been no calls or inquires about this request. A proposed Planned Area Development for three houses on the vacant lot on Roosevelt Street east of this site required a neighborhood meeting (held on October 29, 2013) and at the meeting significant neighborhood input was received which indicated a desire to maintain single family dwellings in character with the neighborhood and preserving street front yards and setbacks, without buildings pushed to the property line. The applicant intends to preserve the existing mature trees where possible and the 22 ft. height of the building is well below the allowed 30 ft. building height.

Ms. MacDonald noted that this request meets the approval criteria for Use Permit Standards and Use Permits:

- 1. The site is zoned for a single family residence. The applicant is proposing to build a single family residence with a two car garage facing Roosevelt. There should be no significant increase in vehicular or pedestrian traffic.
- 2. The proposed residence is designed to fit within a 35 ft. x 36 ft. building footprint, retaining a significant portion of the site for landscaped yard. Existing mature trees are intended to be retained, provide shade to the property and reducing heat to the ambient area. The design of the residence will conform to all building codes and will not create nuisances.
- 3. The property had an outdated structure that was non-compliant with building codes and a history of code violations for maintenance and illegal construction. The new property owner removed this structure after

- obtaining demolition permits. The proposed new single family home built to current building codes and contemporary living standards will be an investment in the neighborhood, supportive of redevelopment and infill objectives for neighborhood perseveration.
- 4. Compatibility with existing surrounding structures and uses. The immediate neighborhood has an eclectic architectural character and the proposed contemporary design is simple in detailing and will be compatible with the surrounding context.
- 5. The requested setbacks and second story do not appear to have adverse nuisances or impacts on the surrounding area or general public.

DECISION:

Ms. McDonald approved PL130424 / ZUP13139 / ZUP13146 / ZUP13147 subject to the following conditions:

- 1. The Use Permit Standards and Use Permit are valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
- 2. The Use Permit Standards and Use Permit are valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
- 3. Preservation of healthy mature trees on site will be maintained through construction, or new 2" caliper trees shall be planted along Roosevelt and 12 streets to replace trees that do not survive construction (1 2 trees on Roosevelt Street and 3 4 trees along 12th Street).
- 4. North elevation requires more architectural detail and windows, provide clerestory windows into garage and bathroom on first floor and in the bedrooms on the second floor for natural light and preservation of privacy to lot to the north.
- 5. Provide privacy screen on second floor balcony on north side for preservation of privacy of lot to the north.
- 6. If the front of the building is set back to 16 feet, the open structure setback shall be reduced by 20% to allow a 4 foot front porch facing the street.
- 7. Provide a front porch along the east elevation of the house. Coordinate floor plans with elevations; roof overhangs on floor plan do not match east elevation.

10. Request approval for a Use Permit to allow a restaurant in the GID, General Industrial District, and a Use Permit to allow live entertainment for the CULINARY DROPOUT AT FARMER ARTS DISTRICT (PL130284) located at 149 South Farmer Avenue. The applicant is Ed Bull of Burch & Cracchiolo.

Ed Bull, of Burch & Cracchiolo, was present to represent this case.

Diana Kaminski, Senior Planner, noted that this request is located on the southeast corner of First Street and Farmer Avenue, south of the Tempe Town Lake, west of downtown Tempe and adjacent to the Union Pacific Railroad. It is proposed to be located in three of four suites (Nos. 1, 2 & 3). The proposed restaurant is to be located in Suite No. 1, the kitchen, restrooms and storage are to be located in Suite No. 2, and a banquet facility to be operated by Culinary Dropout is located in Suite No. 3. The property is zoned GID, General Industrial, and is surrounded by other industrially zoned properties. The proposed uses within the existing building would include Culinary Dropout, coffee shop and a fitness studio and retail store. The proposed hours for the Culinary Dropout would be 10 Am at the earliest and 2 Am at the latest. They will have a Series 12 liquor license and live entertainment is proposed for both indoor and outdoor locations in Suite No. 1 and on the north patio which has screened fencing and canopy. The proposed entertainment includes disc jockeys, live acoustic and amplified bands (up to 8 members), karaoke, dancing and yard games.

Ms. Kaminski noted that there has been one inquiry from Mr. Stephen Voss regarding the design of the building and what changes would be made, specifically to the east elevation, facing offices across the railroad tracks. The inquiry also addressed issues of parking and narrowing of Farmer Avenue. A Development Plan Review will be administratively reviewed and will address these concerns.

Mr. Ed Bull spoke and noted that he had met with Mr. Stephen Voss regarding two (2) additional proposed Conditions of Approval. One addressed the City's Noise Ordinance and suggested Special Noise restrictions on such days as Saturdays, Sundays and special holidays and events. The other proposed Condition of Approval addresses landscape issue(s) involving planting of trees.

Ms. Kaminski explained that the final decision was to add a Condition of Approval (Number 12) to cover the second condition proposed by Mr. Bull and Mr. Voss regarding the planting of trees. The first proposed condition was regarding the noise restrictions was not supportable in the opinion of the City's attorney.

Ms. MacDonald questioned the path of the landscaping. Ms. Kaminski responded that it was all the way down to University Drive.

Mr. Bull acknowledged his understanding of the twelve conditions as assigned to this request and, in addition, noted that the business needs to be in compliance with the City's Noise Ordinance. He also addressed his understanding of the basic concept of transfers by the City of existing use permits should the business be sold in the future; and also the process of the Development Agreement regarding the ASLD parcel to the north and the required written consent by the AZ State Land Department.

Ms. Kaminski explained that the agreement with the AZ State Land Department is a stipulation addressed in Condition of Approval No. 1 and is outside the scope of the City's transfer process.

Mr. Charles Hullmantel spoke regarding his downtown office located in Tempe on Ash Avenue. He stated that this project is located in an extremely large industrial building and that it is exciting to have a venture other than an industrial use located there. He noted that the light rail comes extremely close to the building which houses Mr. Voss' offices. Mr. Hullmantel spoke in favor of the project.

Mr. Stephen Voss spoke, stating that he has the building that is closest to the proposed development. He noted that the light rail track is between his property and the development. He acknowledged thanks to Mr. Bull for resolving issues of concern within a short period of time and for working together in order to provide stipulations (Conditions) to address these issues of concern (noise and landscaping). Mr. Voss read the two (2) proposed Conditions as explained by Mr. Bull earlier. He spoke of his concern regarding noise and what could possibly happen in the future if a new owner took over the business.

Ms. MacDonald noted that currently the surrounding businesses are uses that are noise producing. The location of Mr. Voss' building is relative to existing bars and restaurants with live entertainment that are all very noisy. In addition the location of the light rail, flight pattern from Sky Harbor airport and Union Pacific Railroad are noise producing locations.

Mr. Voss acknowledged that the live entertainment from the bar across the street is at times very loud, and that before he bought his building that the building next door did not have this use. He stated that he is doing the best he can to make sure that any increased noise by new developments is kept to a minimum.

Mr. Bull indicated that he will continue to work with Mr. Voss about any concerns he may have in the future. Ms. MacDonald complimented the applicant and neighbor on their efforts to work together to resolve the issues, and stated that property owners and applicants are encouraged to work together whenever possible.

Ms. MacDonald noted that this request meets the requirements of a Use Permit in the GID District:

- 1. Any significant increase in vehicular or pedestrian traffic. As an industrial site the property formerly had heavy truck traffic for deliveries. There will still be deliveries for food and beverages and increased refuse collection as a result of the restaurant use. The designation nature of this restaurant will also create an increase in traffic to the area, however, not in excess of what the streets are designed to accommodate. The proposed restaurant will encourage pedestrian and bicycle access as well as promoting alternative modes of transportation.
- 2. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions. The site was formerly one of the largest cabinet manufacturing

- companies in the state, historically used for heavy industrial uses with dust, noise, vibration common to woodworking. The proposed restaurant will not exceed the ambient conditions of the highly eclectic industrial and commercial area which includes the Union Pacific Railroad, Tempe Beach Park, and the Sail Inn which has live entertainment indoor and outdoor. The site is under the direct flight path of Sky Harbor International Airport.
- 3. The proposed restaurant is converting an existing warehouse, which was rehabilitated and has remained empty for several years, into a new use that activates the site and energizes the area. It will significantly enhance the street front appearance and help implement the goals of the General Plan.
- 4. The proposed restaurant is compatible with surrounding structures and uses and will be enhanced by landscaping.
- 5. Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public. The proposed restaurant is a concept that has been tested and proven successful in two other Valley locations. The restaurateur has a management track record and demonstrated success at controlling behavior both inside and outside the premises and will help to mitigate existing conditions of vacant properties, littering and graffiti.

Ms. MacDonald approved PL130284 / ZUP13140 / ZUP13141 subject to the following conditions:

- 1. Written consent provided by the Arizona State Land Department for use of the ASLD parcel to the north is required prior to building permit issuance for construction of the patio on the ASLD parcel, or these Use Permits are valid only for the subject site. excluding the ASLD parcel to the north.
- 2. The Use Permits are valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
- 3. The Use Permit for a restaurant with banquet facilities is valid for CULINARY DROPOUT AT THE FARMER ARTS DISTRICT, SUITES 1, 2 & 3 as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
- 4. The Use Permit for live indoor and outdoor entertainment is valid for CULINARY DROPOUT AT THE FARMER ARTS DISTRICT, SUITES 1 & 2 as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
- 5. If there are any complaints arising from either of the Use Permits, that are verified by a consensus of the complaining party and the City Attorney's office, these Use Permits will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permits, which may results in termination of either or both of the Use Permits.
- 6. Any intensification of use that would negatively impact compatibility with neighboring properties shall require review of the Use Permit to determine if a new Use Permit is necessary pursuant to Zoning Code Section 6-308.I.1.
- 7. Indoor live entertainment shall cease at 1:55 Am Sunday through Saturday.
- 8. Outdoor live entertainment involving music, dancing and similar uses will cease at 10 Pm, Sunday through Saturday. Outdoor live entertainment such as yard games and activities will cease at 1:55 Pm Sunday through Saturday.
- 9. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact 480-350-8749 before January 3, 2014.
- 10. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.
- 11. All other uses proposed for the site that require use permits shall submit requests for use permits.
- 12. Prior to the City's issuance of an Occupancy Permit for the restaurant and/or outdoor patios, a minimum of twenty 1.5 inch caliper trees shall be planted (along with an appropriate irrigation system) that are generally evenly distributed and adjacent to the parcel's east property line (generally staggered between the east and west sides of the future pedestrian pathway), as generally shown on the landscape plan, dated November 26, 2013, as finally approved through the City's Design Review and Approval processes. City's denial of a requirement for trees along this parcel's east property line through the DR Processes shall not constitute an elimination of this Use Permit requirement for such trees. Any trees that die after planting shall be replaced with like size and type within three months. **ADDED BY STAFF**

11. Request approval for a Use Permit to allow a tobacco retailer (smoke shop) and a Use Permit to allow a retailer (gift card exchange) for ARIZONA NATURAL TOBACCO PRODUCTS (PL130384) located at 1730 East Apache Boulevard, Suite No. 107. The applicant is Brady Barger.

Brady Barger was present to represent this case. Mr. Barger acknowledged his understanding of the assigned Conditions of Approval.

Sherri Lesser, Senior Planner, noted that this business is located on the north side of Apache Boulevard, west of McClintock Drive. They are requesting a use permit for a retail use offering tobacco and tobacco paraphernalia products and a use permit to allow the purchase of gift cards from customers to resale on site and on the internet. Ms. Lesser noted that the proposed use is not a pawn business, however, customers can sell items (unwanted gift cards) to the store and purchase other products available. There will be 3 to 5 employees on site during business hours depending on demand. This proposal is not within 1,320 feet of a school and meets the Zoning and Development Code's tobacco retailer separation requirements which took effect in June 2007.

Ms. Lesser noted that no public input had been received on this request.

Ms. MacDonald noted that this request meets the criteria for a use permits:

- 1. There will be no significant increase in vehicular or pedestrian traffic. The proposed use is similar to other retail uses in the area and would not generate significant traffic to the area.
- 2. There should be no nuisance created by the business.
- 3. The proposed development would not contribute to neighborhood deterioration or downgrade property values.
- 4. The use is compatible with the existing structure and surrounding uses.
- 5. Adequate control of disruptive behavior both inside and outside the premises. Staff inside will be responsible for checking the age of those wishing to purchase products.

DECISION:

Ms. MacDonald approved PL130384 / ZUP13143 / ZUP13144 subject to the following conditions:

- 1. This Use Permit or Variance is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
- 2. The Use Permits are valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
- If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining
 party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a
 public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the
 Use Permit.
- 4. Any intensification or expansion of use shall require a new Use Permit.
- These Use Permits are valid for ARIZONA NATURAL TOBACCO PRODUCTS and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- 6. All business signs shall receive a Sign Permit. Contact sign staff at 480-350-8435.
- 7. All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the Use Permit becoming effective.
- 8. All required permits and clearances for resale retail shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the Use Permit becoming effective.
- 9. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
- 10. The applicant shall contact Nathan Ryberg (480-858-6409) to verify if a security plan will be required for the purchase of gift cards and retail of tobacco and related products.

The December 17, 2013 Hearing Officer public hearing has been cancelled. The next Hearing Officer public hearing will be held on January 7, 2014.

There being no further business the public hearing adjourned at 2:50 PM.

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:

Steve al. h. many

Steve Abrahamson, Planning & Zoning Coordinator for Vanessa MacDonald, Hearing Officer

SA:dm